

November 13, 2018

Via email

California Public Utilities Commission, Energy Division
505 Van Ness Ave
San Francisco, CA 94102
customerchoice@cpuc.ca.gov

**RE: Informal Comments of OhmConnect, Inc. on the California Customer Choice Project
“Draft Gap Analysis/Choice Action Plan”**

Dear California Customer Choice Team:

OhmConnect appreciates the opportunity to submit informal comments on the Commission’s *Draft Gap Analysis and Choice Action Plan*. The report offers a robust discussion of the principal issues associated with the expansion of Community Choice Aggregators (CCAs) in California and comprehensively reviews the current and future pathways for resolving these issues. Our comments focus on what is, in our judgment, a significant omission from the Gap Analysis: a discussion of true customer choice in the form of open retail competition.

Introduction

California has seen, in just a few short years, a remarkable expansion of non-Investor Owned Utility (IOU) retail providers in the form of CCAs. The increasing availability of Direct Access providers for non-residential customers and behind the meter (BTM) generation also continue to diversify consumer energy options. Despite these changes, the current market does not represent true customer choice, at least not for the residential sector.

Although CCAs are expanding and will continue to expand, most residential customers are still tied to their IOU or public utility. Furthermore, at best, a typical household is currently able to choose between two LSEs: the IOU and the CCA—and this presumes that the customer recognizes the CCA as their service provider in the first instance. This is “customer choice” only in a very limited sense. An analysis of customer choice in California cannot be complete without at least some discussion of the opportunities and challenges associated with full retail competition.

The Case for Expanding Direct Access for Residential Customers

As noted in both the final *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market* (“Choice Paper”) as well as the *Draft Gap Analysis/Choice Action Plan*, the 2000-2001 Energy Crisis and associated sudden failure of many Direct Access (DA) providers precipitated a domino effect of negative consequences that led to rolling brownouts and blackouts. The

California Legislature acted quickly to suspend DA¹ for all new customers. Although limited DA for commercial and industrial customers was reopened in 2010² and expanded in 2018³, DA for new residential customers remains closed.⁴

Stakeholders are undoubtedly united in their resolve that nothing akin to the Energy Crisis happens again. This should not, however, preclude serious discussions around the future expansion of Direct Access in general and DA for the residential sector in particular. As many groups noted in their Informal Comments on the Draft Choice Paper, California's market today is very different from what it was in 2000, such that a similar outcome is both unlikely and entirely avoidable.⁵ Moreover, the factors that led to the Crisis have been thoroughly studied and can provide valuable input into a careful and well-structured approach to greater retail competition.

The market is already shifting and will continue to shift toward greater customer choice. By including a discussion of what this might mean for Direct Access in the *Gap Analysis and Action Plan*, the Commission has an opportunity to be forward-looking rather than reactionary and to ensure that proper groundwork is laid for the road ahead.

Importantly, we *do not* suggest that the Customer Choice Project outline a roadmap toward full retail competition in this report; such a move would be premature. However, we do recommend that the Gap Analysis include, perhaps as a separate “issue”, a pathway toward having the conversation around retail competition, or true customer choice, especially as it pertains to the residential sector. This is discussed in greater detail below.

What is Needed: Analysis, Regulatory and Legislative Action

The Commission can play an important role in shaping the conversation around retail competition. In fact, its ability to advise the Legislature on this matter is outlined in the Public Utilities Code. The adopted September 2018 revisions to Section 365.1 of the Public Utilities Code state that “the commission shall provide recommendations to the Legislature on implementing a further direct transactions reopening schedule, including, but not limited to, the phase-in period over which the further direct transactions shall occur for all remaining nonresidential customer accounts in each electrical corporation’s service territory”, on or before June 1, 2020.⁶ The language in this section is sufficiently broad that it does not preclude the provision of recommendations on the reopening of DA for residential customers. We recommend that the Commission, in the final *Gap Analysis and Action Plan*, commit to a stakeholder

¹ Assembly Bill 1 Extraordinary Session (AB 1x), at http://leginfo.ca.gov/pub/01-02/bill/asm/ab_0001-0050/abx1_1_cfa_20010201_090116_asm_floor.html.

² Senate Bill 695 (SB 695), at www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_695_bill_20091011_chaptered.html.

³ Senate Bill 237 (SB 237), at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB237.

⁴ Public Utilities Code of California §365.1, at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=365.1.&lawCode=PUC.

⁵ Advanced Energy Buyers’ Group, at p. 2; Advanced Energy Economy, at p. 2; Alliance for Retail Energy Markets, at p. 5; California Center for Sustainable Communities, at p. 1; California Community Choice Association, at pp. 2-3; City and County of San Francisco, at p. 2; and Solar Energy Industries, at p. 1.

⁶ Senate Bill 237 (SB 237), section (c)(1), at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB237.

process to assess the timeliness and desirability of eliminating the DA prohibition for residential customers, with the goal of providing a recommendation to the Legislature on the issue.

Such a process, once underway, could include:

- A stakeholder workshop to discuss and provide input into the topics to be covered in a subsequent analysis.
- An analysis that expands the topics discussed in the Gap Report and Action Plan (e.g., consumer protections, grid reliability and resource adequacy, decarbonization goals) to represent a market where myriad Energy Service Providers serve both residential and non-residential customers.
- A review of the factors that contributed to the 2000-2001 Energy Crisis—these are widely known and would not require additional analysis—and an action plan for ensuring that the same factors do not materialize again.
- A stakeholder en banc to discuss the Draft Report.
- A final report to the Legislature with a recommendation for or against amending the Public Utilities Code.

Redline Recommendations

OhmConnect requests the following recommendation be added to Table 1: Summary Table and to Table 6: Detailed Gap Analyses Recommendations.

Table 1: Summary Table

CATEGORY	ISSUE	ACTION
Other	Future expansion of the Direct Access Program	Initiate stakeholder process to assess the timeliness and desirability of eliminating the DA prohibition for residential customers, with the goal of providing a recommendation to the Legislature on the issue.

Table 6: Detailed Gap Analyses Recommendations

CATEGORY	ISSUE	REGULATOR Y ACTION (EXISTING)	REGULATOR Y ACTION (NEW)	LEGISLATIVE ACTION	ADDITIONAL ANALYSIS
Other	Future expansion of the Direct Access Program	None	Report to the Legislature with a recommendation for or against amending the Public Utilities Code.	Legislative action will be required to amend Section 365.1(d) of the Public Utilities Code.	Expand the topics discussed in the Gap Report and Action Plan (e.g., consumer protections, grid reliability and resource adequacy, decarbonization goals) to represent a market where myriad energy

					service providers serve both residential and non-residential customers.
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About OhmConnect

OhmConnect is currently a residential Demand Response Provider (DRP) that provide DR services to over 100,000 residential customers and manages tens of thousands of kW of demand response resources in the California ISO (CAISO) market. OhmConnect provides a fun and engaging app for households to respond to grid fluctuations in exchange for earning money and social rewards. Participants reduce their electricity use upon receiving simple email, text or in-app notifications; simultaneously, wifi-connected devices in their homes (e.g. smart thermostats) are turned off automatically during “#OhmHour” demand response events.

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Respectfully submitted,

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